

**BEFORE THE ARIZONA BOARD OF OSTEOPATHIC EXAMINERS
IN MEDICINE AND SURGERY**

IN THE MATTER OF:

BRIAN L. FINKEL, D.O.

Holder of License No. 1830 for the
practice of osteopathic medicine in the
State of Arizona.

) **CONSENT TO ENTRY OF**
) **FINDINGS OF FACT, CONCLUSIONS OF**
) **LAW AND ORDER ACCEPTING**
) **SURRENDER OF LICENSE**

) **Case No. 3287**

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STIPULATION

ARIZONA BOARD OF
OSTEOPATHIC EXAMINERS
IN MEDICINE AND SURGERY

By mutual agreement and understanding, the Arizona Board of Osteopathic Examiners (hereafter "Board") and Brian L. Finkel, D.O. (hereinafter "Respondent"), the parties hereto agree to the following disposition to this matter.

1. Respondent acknowledges that he has read this Consent to Entry and the attached Order; and Respondent is aware of and understands the content of these documents.
2. Respondent understands that by entering into this Consent, he voluntarily relinquishes any rights to a hearing on the matters alleged as grounds for Board action or to seek judicial review of the consent order in state or federal court.
3. Respondent understands that this Consent Order will not become effective unless approved by the Board and signed by its Executive Director.
4. Respondent further understands that this Consent Order, once signed, shall constitute a public record which will be reported to the public, the National Practitioners Data Bank, the Federation of State Medical Boards, and, if appropriate, to other agencies as required by A.R.S. §§ 32-1855 (J) and (K).
5. Respondent admits to the statement of facts and conclusions of law contained in the Consent Order.

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ARIZONA BOARD OF
OSTEOPATHIC EXAMINERS
IN MEDICINE AND SURGERY

6. All admissions made by Respondent are solely for final disposition of this matter and any subsequent administrative proceedings or litigation involving the Board and the Respondent and, therefore, said admissions by Respondent are not intended for any other purpose or administrative regulatory proceeding or litigation in another state or federal court.

7. If Respondent's convictions in cases CR2002-001431 and CR2001-015515 are overturned on appeal and he is subsequently found not guilty on all charges or all charges are dismissed by the court on the merits with prejudice, then Respondent and the Board agree to the vacating of this Order and the reinstating of all pending complaints (case numbers 2989, 3008, 3026, 3034, 3036, and 3037) for the Board's continued investigation, review, and determination.


REVIEWED AND ACCEPTED this 7 day of May, 2004.


Brian L. Finkel, D.O.

REVIEWED AND APPROVED as to form by counsel for Respondent on this _____
day of _____, 2004.

Lawrence J. Rosenfeld
Greenberg Traurig, LLP

REVIEWED AND SIGNED this 26th day of May, 2004 for the Board by:



Elaine LeParte, Executive Director
Arizona Board of Osteopathic Examiners
in Medicine and Surgery

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ARIZONA BOARD OF
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REVIEWED AND ACCEPTED this _____ day of _____ 2004.

Brian L. Finkel, D.O.

REVIEWED AND APPROVED as to form by counsel for Respondent on this 7
day of May, 2004.

Lawrence J. Rosenfeld
Greenberg Traurig, LLP

REVIEWED AND SIGNED this 26th day of May, 2004 for the Board by:

Elaine LeTarte, Executive Director
Arizona Board of Osteopathic Examiners
in Medicine and Surgery

**BEFORE THE ARIZONA BOARD OF OSTEOPATHIC EXAMINERS
IN MEDICINE AND SURGERY**

IN THE MATTER OF:)	
)	FINDINGS OF FACT
BRIAN L. FINKEL, D.O.)	CONCLUSIONS OF LAW AND
Holder of License No. 1830 for the)	ORDER ACCEPTING SURRENDER
practice of osteopathic medicine in the)	OF LICENSE
State of Arizona.)	
_____)	Case No. 3287

On October 15, 2001, The Arizona Board of Osteopathic Examiners in Medicine and Surgery (hereafter "Board") held a public meeting to consider Case 2989 regarding Brian L. Finkel, D.O. (hereinafter "Respondent"). After considering evidence and hearing testimony, the Board entered Findings of Fact, Conclusions of Law, and an Order of Summary Suspension. The Board issued a Complaint and Notice of Hearing on November 5, 2001, setting the date of the hearing for January 19, 2002.

Between November 30, 2001 and March 22, 2002, the Board received and notified Respondent of five additional cases against his license (numbers 3008, 3026, 3034, 3036, and 3037). Through his attorney, Respondent answered those additional cases. The Board granted an indefinite continuance of the hearing and pending investigations until the conclusion of related criminal cases.

On December 19, 2003, Respondent and his attorney were notified of this case, No. 3287, involving felony convictions in State versus Brian L. Finkel, D.O., in cases CR2002-001431 and CR2001-015515. Through his attorney, Respondent answered on December 21, 2003.

On May 8, 2004, the Board considered this case in a public meeting. The State was represented by Blair Driggs, Asst. Attorney General. Neither Respondent nor his attorney, Mr. Lawrence Rosenfeld, was present at the meeting. The State presented a motion that the Board accept

the Surrender of the Respondent's license, in resolution of Case 3287. Having considered the evidence and having heard the arguments, the Board authorized the Executive Director to sign, and thus entered, the following Findings of Fact, Conclusions of Law, and Order accepting Surrender.

FINDINGS OF FACT

1. The Board is empowered, pursuant to A.R.S. § 32-1800, *et seq* to regulate the licensing and practice of osteopathic medicine in the State of Arizona.

2. Respondent is a licensee of the Board and the holder of License No. 1830 for the practice of osteopathic medicine in the State of Arizona.

3. On December 2, 2003, Respondent was found guilty in Maricopa County Superior Courts on 22 counts of sexual abuse, a Class 5 felony, in cases CR2002-001431 and CR2001-015515. The thirteen victims were all allegedly Respondent's former patients.

4. On January 2, 2004, Respondent was sentenced to imprisonment and 99-year probation upon release. A condition of the court-ordered probation is that Respondent "may not perform duties or be employed in the medical field."

5. As of May 8, 2004, Respondent has pending before the Board six other cases alleging unprofessional conduct (Cases 2989, 3008, 3026, 3034, 3036, and 3037).

CONCLUSION OF LAW

6. The conduct described above in paragraph 3 constitutes unprofessional conduct as defined at ARS § 32-1854 (2) Committing a felony, whether or not involving moral turpitude, or a misdemeanor involving moral turpitude. In either case conviction by any court of competent jurisdiction is conclusive evidence of the commission.

ORDER

Pursuant to A.R.S. § 32-1855(N) the AZ Board of Osteopathic Examiners enters the following Order for the disposition of this matter:

1. Based on the above, pursuant to Respondent's offer to surrender his license to practice medicine in Arizona, Respondent's license is hereby **SURRENDERED**, from the effective date of this Order.

2. Cases 2989, 3008, 3026, 3034, 3036, and 3037 are hereby **DISMISSED WITHOUT PREJUDICE**.

ISSUED AND EFFECTIVE this 26th day of May, 2004.

ARIZONA BOARD OF OSTEOPATHIC EXAMINERS
IN MEDICINE AND SURGERY

By: Elaine LeTarte
Elaine LeTarte, Executive Director
9535 E. Doubletree Ranch Rd.
Scottsdale AZ 85258-5539

Served by U.S. certified mail
this 27th day of May, 2004 to:

Brian L. Finkel, D.O., care of:
Lawrence Rosenfeld
Greenberg Traurig, LLP
2375 E. Camelback Rd, Ste 700
Phoenix AZ 85016

Copies mailed
this 27th day of May, 2004 to:

Lawrence Rosenfeld
Greenberg Traurig, LLP
2375 E. Camelback Rd, Ste 700
Phoenix AZ 85016

Blair Driggs
Assistant Attorney General
Office of the Attorney General / LES
15 South 15th Avenue, 3rd floor
Phoenix AZ 85007

Drug Enforcement Administration
Attention: Diversion Section
3010 N. 2nd St
Phoenix AZ 85012
